

HOUSE No. 798

By Mr. O'Brien of Kingston, petition of Thomas J. O'Brien and Viriato Manuel deMacedo relative to the penalty for rape of elderly or disabled persons. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO RAPE OF AN ELDER OR A PERSON WITH A DISABILITY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 265 of the General Laws, as appearing in the 2002
2 Official Edition, is hereby amended by adding the following
3 section after section 22A as so appearing:

4 Section 22B. Rape of an elder or person with a disability;
5 weapons; punishment.

6 Whoever has sexual intercourse or unnatural sexual intercourse
7 with a person 60 years of age or older, hereinafter referred to as an
8 elder, or with a person with a permanent or long term physical or
9 mental impairment that prevents or restricts his or her ability to
10 provide for his or her own care or protection, hereinafter referred
11 to a person with a disability, and compels said elder or person
12 with disability to submit by force and against his or her will or
13 compels said elder or person with a disability to submit by threat
14 of bodily injury, shall be punished by imprisonment in the state
15 prison for life or for any term of years; and whoever commits a
16 second or subsequent such offense shall be sentenced to the state
17 prison for life or any term of years, but not less than five years;
18 provided however, that a prosecution commenced under the provi-
19 sions of this section shall not be placed on file or continued
20 without a finding.

21 Whoever commits any offense described in this section while
22 armed with a firearm, rifle, shotgun, machine gun or assault
23 weapon shall be sentenced to the state prison for life or for any
24 term of years, but not less than ten years. Whoever commits a

25 second or subsequent such offense shall be sentenced to the state
26 prison for life or for any term of years, but not less than twenty
27 years; provided however, that a prosecution commenced under the
28 provisions of this section shall not be placed on file or continued
29 without a finding.